

**State Board of Education  
Legislative Affairs Committee Conference Call  
October 19, 1999  
10:00am (Mountain)**

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**SUMMARY OF JUNE 1999 ACTION**

At the June 1999 Board meeting, the Legislative Affairs Committee brought forth a document for Board adoption identifying the Board's Core Legislative Principles. The following core principles were approved by the Board.

**A. The Board**

- generally endorses higher levels of funding to educational entities.
- supports efforts to seek mechanisms to mitigate dangerous conditions in public school buildings.
- supports initiatives to promote a higher rate of postsecondary attendance by high school graduates.
- opposes legislation that undermines its constitutional responsibilities.
- opposes legislation that mandates specific curriculum.

**B. The Board reaffirms the Goals as outlined in the State Board of Education's Statewide Strategic Plan, page 4 (shown below).****Technology**

1. Use technology to maximize productivity and the rate and quality of student learning.
  - Initiate a paradigm shift in the way Idahoans, including educators, view the delivery of educational services through technology.
  - Create incentives to encourage institutions and agencies to make the radical changes necessary to use technology effectively.
  - Develop the organizational structure to implement technology.
2. Establish an ongoing system to review innovations and recommend state of the art delivery of instruction.

**Governance**

1. Resolve roles and missions and governance issues as a prelude to implementation of other goals in the strategic plan.
  - Consolidate and delegate responsibilities at all levels.
  - Clarify the roles and missions of the institutions.
2. Provide clear direction from the State Board of Education to the institutions and agencies on the relative priority to be given higher education access, cost and quality.
3. Assure that the educational services provided by the State Board of Education, its agencies and institutions are driven by client needs.
4. Reaffirm the Board's commitment to K-12 public education and opposition to anything that would compromise the basic support structure.
5. Establish responsibility for management of public schools at the building site level consistent with the responsibility and authority of the school district board of trustees. A council of parents, teachers, administrators and, where appropriate, students, may be utilized.
6. Acquire the resources on the Board staff to compile data needed to effectively assess Board policy questions.

**Accountability**

1. Improve public confidence in the educational system.
  - Develop an ongoing process to assess the outcomes of educational programs at all levels.

**Instruction**

1. Assure Idaho education operates as a seamless system without barriers between its various elements.
2. Assure Idaho schools provide a thorough education as defined in statute.
3. Assure excellence in teaching at all levels.

**SUBJECT:   DISPLACED HOMEMAKERS LEGISLATION – DIVISION OF  
PROFESSIONAL TECHNICAL EDUCATION**

**BACKGROUND:** The term “displaced homemaker” was coined in the early 1970's to describe an individual who had not worked outside the home and who, because of the loss of the major financial support of the family, had to enter the labor market for the first time to support the family. With societal changes during the past twenty years, the number of individuals who meet this definition has declined. In their place is a growing number of single parents who are heads of household, who are unable to make a wage sufficient to support themselves and their families, and who need employment skills in order to earn a livable wage.

**DISCUSSION:** The Division of Professional-Technical Education proposes to update the definition of “displaced homemaker” in Idaho Code 39-5002 to include single parents. The updated definition would be consistent with the population actually being served by the Centers for New Directions. There is no fiscal impact anticipated. This legislative proposal has been submitted to the Division of Financial Management for pre-filing, but will be withdrawn if not approved by the Board.

**COMMITTEE ACTION:**

To agree by consensus to forward the legislation proposed by the Division of Professional-Technical Education to the full Board for their consideration and action with a recommendation to approve / disapprove / table.

**BOARD ACTION:**

**It was moved by \_\_\_\_\_ and carried to approve / disapprove / table the proposed legislation to change Idaho Code 39-5002 to update the definition of “displaced homemaker.”**

TITLE 39 / HEALTH AND SAFETY  
EQUAL OPPORTUNITY FOR DISPLACED HOMEMAKER ACT

39-5002. DEFINITIONS. For purposes of this chapter

- (a) ~~"Displaced homemaker" means a person who (1) Has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing household services for family members without salary; (2) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment; (3) Has been dependent on the income of another family member but is no longer supported by such income; has been dependent on federally funded assistance but is no longer eligible for such assistance; or is supported as the parent of minor children by government assistance or spousal support but whose children are within two (2) years of reaching their majority, at which time such support will cease.~~
- (1) Has worked in the home providing household services for family members, but who has lost the primary source of economic support and who must gain employment skills in order to earn a livable wage; or**
- (2) Is a single parent with primary financial and custodial responsibility for supporting dependent children and who must gain employment skills in order to earn a livable wage.**
- (b) "Administrator" means the administrator of the division of professional-technical education.

**SUBJECT: PUBLIC RECORDS EXEMPTION – UNIVERSITY OF IDAHO**

**BACKGROUND:** Idaho Code 9-340D provides for public records exempt from disclosure.

**DISCUSSION:** The University of Idaho proposes to add records and documents of foundations supporting public institutions of higher education, donor records of such institutions and certain research records, to those documents exempted from public disclosure. There is expected to be no fiscal impact from this legislation, although without it there could be a negative impact on the ability of public institutions of higher education to raise funds from non-state sources and to enter into research contracts with outside entities. This legislative proposal has been submitted to the Division of Financial Management for pre-filing, but will be withdrawn if not approved by the Board.

**COMMITTEE ACTION:**

To agree by consensus to forward the legislation proposed by the University of Idaho to the full Board for their consideration and action with a recommendation to approve / disapprove / table.

**BOARD ACTION:**

**It was moved by \_\_\_\_\_ and carried to approve / disapprove / table the proposed legislation to change Idaho Code 9-340D to add records and documents of foundations supporting public institutions of higher education, donor records of such institutions and certain research records, to those documents exempted from public disclosure.**

IN THE \_\_\_\_\_

\_\_\_\_\_ BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING SECTION 9-340D, IDAHO CODE, TO PROVIDE THAT DONOR RECORDS FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION OR THEIR RELATED FOUNDATIONS AND CERTAIN RECORDS RELATING ACADEMIC RESEARCH SHALL BE EXEMPT FROM DISCLOSURE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 9-340D, Idaho Code, be, and the same is hereby amended to read as follows:

9-340D. RECORDS EXEMPT FROM DISCLOSURE – TRADE SECRETS, PRODUCTION RECORDS, APPRAISALS, BIDS, PROPRIETORY INFORMATION.. The following records are exempt from disclosure:

- (1) Trade secrets including those contained in response to public agency requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that
  - (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and
  - (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- (2) Production records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or enterprise required by law to be submitted to or inspected by a public agency. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.
- (3) Records relating to the appraisal of real property, timber or mineral rights prior to its acquisition, sale or lease by a public agency.
- (4) Any estimate prepared by a public agency that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.
- (5) Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to any public agency responsible for the regulation or supervision of financial institutions including, but not limited to, banks, savings and loan associations, regulated

- lenders, business and industrial development corporations, credit unions, and insurance companies, or for the regulation or supervision of the issuance of securities.
- (6) Records gathered by a local agency or the Idaho department of commerce, as described in chapter 47, title 67, Idaho Code, for the specific purpose of assisting a person to locate, maintain, invest in, or expand business operations in the state of Idaho.
  - (7) Shipping and marketing records of commodity commissions used to evaluate marketing and advertising strategies and the names and addresses of growers and shippers maintained by commodity commissions.
  - (8) Financial statements and business information and reports submitted by a legal entity to a port district organized under title 70, Idaho Code, in connection with a business agreement, or with a development proposal or with a financing application for any industrial, manufacturing, or other business activity within a port district.
  - (9) Names and addresses of seed companies, seed crop growers, seed crop consignees, locations of seed crop fields, variety name and acreage by variety. Upon the request of the owner of the proprietary variety, this information shall be released to the owner. Provided however, that if a seed crop has been identified as diseased or has been otherwise identified by the Idaho department of agriculture, other state departments of agriculture, or the United States department of agriculture to represent a threat to that particular seed or commercial crop industry or to individual growers, information as to test results, location, acreage involved and disease symptoms of that particular seed crop, for that growing season, shall be available for public inspection and copying. This exemption shall not supersede the provisions of section 22-436, Idaho Code.
  - (10) Information obtained from books, records and accounts required in chapter 47, title 22, Idaho Code, to be maintained by the Idaho canola and rapeseed commission and pertaining to the individual production records of canola or rapeseed growers.
  - (11) Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against a public entity and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency.
  - (12) Records of laboratory test results provided by or retained by the Idaho food quality assurance laboratory. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.
  - (13) Reports required to be filed under chapter 13, title 62, Idaho Code, identifying electrical or natural or manufactured gas consumption data for an individual customer or account.
  - (14) Voluntarily prepared environmental audits, and voluntary disclosures of information submitted on or before December 31, 1997, to an environmental agency as defined in section 9-803, Idaho Code, which are claimed to be confidential business information.
  - (15) Computer programs developed or purchased by or for any public agency for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated

documentation and source material that explain how to operate the computer program.

Computer program does not include

- (a) The original data including, but not limited to, numbers, text, voice, graphics and images;
  - (b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
  - (c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.
- (16) Active investigative records and trademark usage audits of the Idaho potato commission specifically relating to the enforcement of chapter 12, title 22, Idaho Code, until the commencement of formal proceedings as provided by rules of the commission; purchase and sales information submitted to the Idaho potato commission during a trademark usage audit, and investigation or enforcement proceedings. Inactive investigatory records shall be disclosed unless the disclosure would violate the standards set forth in subsections (1)(a) through (f) of section 9-335, Idaho Code. Nothing in this subsection shall limit the use which can be made, or availability of such information if used, for regulatory purposes or its admissibility in any enforcement proceeding.
- (17) Records from or relating to donors or potential donors to a public institutions of higher education or related foundations.**
- (18) Records relating to academic research or studies that have been or will be proposed or conducted by employees, volunteers, or students of public institutions of higher education or their related institutions or foundations. This exemption applies to all academic research whether sponsored by the public institution alone or in conjunction with or solely by a governmental entity or a private entity. This exemption does not apply to published research or data from published research.**

**SUBJECT: HISTORICAL PRESERVATION ACT – IDAHO STATE HISTORICAL SOCIETY**

**BACKGROUND:** The Idaho State Historical Society proposes to create an Idaho Historic Preservation Act providing direction and clarification regarding preservation issues to state agencies.

**DISCUSSION:** The act would add to Idaho Code sections 67-4131, 67-4132, 67-4133, 67-4134, 67-4135, 67-4136, 67-4137, and 67-4138. It is designed to protect buildings, sites, documents and artifacts of historic significance on state-owned lands and in state controlled records systems. The fiscal impact is reported as relatively minor. Implementation of the act will require one additional staff member and will necessitate expenditures connected with rules promulgation. This legislative proposal has been submitted to the Division of Financial Management for pre-filing, but will be withdrawn if not approved by the Board.

**COMMITTEE ACTION:**

To agree by consensus to forward the legislation proposed by the Idaho State Historical Society to the full Board for their consideration and action with a recommendation to approve / disapprove / table.

**BOARD ACTION:**

**It was moved by \_\_\_\_\_ and carried to approve / disapprove / table the proposed legislation, which will add the Historical Preservation Act to Idaho Code.**



IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO.

BY

AN ACT

RELATING TO AN HISTORIC PRESERVATION ACT TO PROVIDE THAT STRUCTURES AND SITES POSSESSING HISTORICAL SIGNIFICANCE ARE PRESERVED TO THE EXTENT POSSIBLE FOR THE EDUCATION AND ENJOYMENT OF THE RESIDENTS OF THIS STATE, PRESENT AND FUTURE.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1: That Chapter 41, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a new section, to be known and designated as Sections 67-4131, 67-4132, 67-4133, 67-4134, 67-4135, 67-4136, 67-4137, and 67-4138 Idaho Code and to read as follows:

67-4131. HISTORIC PRESERVATION ACT. It is hereby declared that structures and sites possessing historic significance are cultural resources of Idaho; that the preservation of such resources is in the interest of the citizens of Idaho; and that the planning and activities of state agencies should include the preservation of such resources. It is the intent of this Idaho historic preservation act to provide that such resources be preserved to the extent possible for the education and enjoyment of the residents of this state, present and future.

67-4132. TITLE. The name of this act shall be the Idaho Historic Preservation Act.

67-4133. AGENCY RESPONSIBILITIES. Before expending any state funds or approving any project, all agencies and entities of the state and their divisions and subdivisions shall:

(a) Take into account the effect of the undertaking on any district, site, building structure or specimen that is included in or eligible for inclusion in the national register of historic places or the Idaho register of historic properties and sites; and

(b) Allow the state historic preservation officer of the Idaho state historical society a reasonable opportunity to comment with regard to the undertaking or expenditure.

67-4134. PRESERVATION OF HISTORIC PROPERTY – PROCEDURES.

(a) Agencies and entities of the state and their divisions and subdivisions may not undertake any project which will encroach upon, damage or destroy any historic property included in or eligible for inclusion in the national register of historic places or the Idaho register of historic properties and sites until the state historic preservation officer has been given written notice and an opportunity to investigate and comment on the proposed project.

(b) The written notice will be in a form to be determined by the historical society. Notice is to be delivered to the state historic preservation officer. Notice will be effective on receipt by the state historic preservation officer.

(c) The state historic preservation officer may solicit advice and recommendations from individuals and organizations with an interest in historic preservation with respect to such projects and may request that a public hearing be held thereon.

(d) The failure of the state historic preservation officer to initiate an investigation of any proposed project within thirty (30) days from the date of receipt of notice thereof will be deemed approval of the project.

67-4135. APPEAL. If the state historic preservation officer determines that the proposed project will encroach upon, damage or destroy any historic property which is included in or eligible

for inclusion in the national register of historic places or the Idaho register of historic properties and sites, or the environs of such property, the project may not proceed until the governor has made a written determination, based upon the consideration of all relevant factors, that there is no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to the historic property resulting from such use.

(a) The party aggrieved by the state historic preservation officer decision must request the governor's review in writing within ten (10) days of the state historic preservation officer's decision.

(b) If the governor fails to issue a written determination within thirty (30) days, the project will be deemed approved.

(c) Upon determination by the governor that a project shall proceed, notice of the determination shall be given to the state historic preservation officer within ten (10) days, along with a complete record of factors considered in making such a determination.

67-4136. STATE HISTORIC PRESERVATION OFFICER. The state historic preservation officer shall provide advice to the agency or its divisions on ways to avoid or minimize harm to an endangered historic resource. This may included, but is not limited to, negotiation of agreements requiring the agency or its division to record or otherwise document a historic site slated for disruption or demolition through photographs or architectural drawings that maximize the amount of historic, scientific, archaeological, anthropological, and educational information recovered. The state historic preservation officer may require the physical recovery of specimens and the reporting of archaeological information at current standards of scientific rigor and designate the process and procedures for doing so.

67-4137. EXEMPTION. Projects that have undergone federal historic preservation review need not be reviewed pursuant to this section.

67-4138. IDAHO REGISTER OF HISTORIC PROPERTIES AND SITES. The state historic preservation officer shall prepare and maintain an Idaho register of historic properties and sites, including all those listed on the national register of historic places. The board of trustees of the Idaho state historical society shall promulgate rules as necessary for implementation of this act consistent with industry standards for preservation and care.

**SUBJECT: ADMINISTRATIVE RULES**

**BACKGROUND:** A summary of the proposed revisions and additions to Administrative Rules that will affect the State Board of Education or State Board of Education entities are listed below.

**DISCUSSION:** The rule revisions have been promulgated in accordance with Idaho Code. The rules are listed here as information to the Board, as all have either already received Board consideration and approval or will be considered at the October or November 1999 meeting.

**BOARD ACTION:** None. Information only.

**EXITING STANDARDS.** Establishment of state exiting standards as a minimum requirement for graduation from public schools. Initial approval was granted in April. Final approval of proposed rules related to exiting standards is anticipated at the October 1999 SBOE meeting.

**SPECIAL EDUCATION.** Additions, revisions or deletions to state rules are proposed for evaluations, eligibility, individualized education programs, parent and student rights, performance goals and indicators, advisory panel appointment procedures, liability for assistive technology devices, and participation of students with disabilities in statewide testing. This will correct conflicts between state special education rules and recent changes to federal special education laws and regulations. Initial approval from the SBOE was granted in June, final approval was granted in September 1999.

**CERTIFICATION.** Technical changes to rules related to certification, specifically pertinent to the Administrator Certificate, the Early Childhood/Early Childhood Special Education Blended Certificate; the School Nurse endorsement; and the Family and Consumer Sciences endorsement. Initial approval from the SBOE was granted in September, final approval is anticipated in November 1999.

**CHARTER SCHOOLS.** Date change for calculating unused allotments of charter schools from June 1 to October 1 annually. The proposed rule is necessary to be consistent with Idaho Code 33-5203. Initial approval from SBOE was granted in September, final approval is anticipated in October 1999.

**NURSING.** Provide standards, criteria, and curriculum requirements for nursing education programs. The purpose of the revisions is to provide for flexibility to allow for future changes in education while assuring an acceptable level of safety and learning effectiveness for students. Approval from SBOE was granted in September 1999. These rules will be taken to Legislature by the Board of Nursing.

**PROFESSIONAL-TECHNICAL EDUCATION.** Repeal general administrative rules related to the Division of Vocational Education and replaces them with revised rules that are in compliance with the recently enacted name change. Initial approval from the SBOE was granted in April, final approval was granted in September 1999.

**STATE STUDENT INCENTIVE GRANT.** Changes the name of the State Student Incentive Grant program to Leveraging Educational Assistance Partnership program to conform to federal changes. Initial approval from the SBOE was granted in June, final approval is anticipated in October 1999.

**SUBJECT: OTHER POTENTIAL LEGISLATIVE TOPICS**

The following information is presented to update the Board members on issues and matters shaping up for the 2000 legislative session.

**BOARD ACTION:** None. Information only.

- a. **Teacher / Administrator Contract Law** - An Interim Legislative Committee on Teacher and Administrator Contract Law will likely bring forth legislation in an attempt to clarify and strengthen statutes related to evaluation processes and contracts for certificated personnel. Some have suggested provisions that would require additional assistance, support and training for teachers in their first three years of employment, either provided by local districts, the State, or higher education institutions. The Interim Committee will be accepting draft legislative proposals at their final meeting, now tentatively scheduled for October 27, 1999.
- b. **Scholarships** - Last year, a Board sponsored committee worked with legislators to develop a scholarship legislative proposal. The proposal, sponsored by Senator Lee, would have established a statewide two-year scholarship program for Idaho high school graduates achieving a 3.0 or better GPA. The Board endorsed the proposal and while it easily moved through the House and Senate Education Committees and the Senate, it narrowly failed in the House. Senator Lee has indicated that he will introduce the legislative proposal again this session.
- c. **Community College Funding** - Representative Don Pischner may introduce legislative proposals designed to change the state funding policy for community colleges by reducing property tax assessments in favor of increased state funding. Policy issues facing the Board might include: what is the proper balance (state, property taxes, tuition, other) of funding for community colleges and, if state support to community colleges is increased, should they still be locally controlled.
- d. **Weapons on School Grounds** – Last session, Representative Randy Hansen submitted legislation that would have prohibited both juveniles and adults from carrying weapons on school grounds, providing certain exceptions for adults. The legislation was amended to provide an exception for students if their weapon was secured in a vehicle, and to those with concealed weapon permits, and it was ultimately vetoed. It is anticipated that Representative Hansen may introduce legislation on this subject again. He has begun by soliciting input from interested parties, including the SDE, IEA and IASA, who have endorsed a proposal that would prohibit anyone from carrying weapons on school grounds, with the only two exceptions being peace officers and person attending district sanctioned activities where weapons may be required, such as hunter safety courses, ROTC, etc.

**SUBJECT: NOVEMBER 10, 1999 SBOE / LEGISLATIVE VIDEOCONFERENCE**

**BACKGROUND:**

Staff at the Board office has been gathering topics for the upcoming SBOE/Legislative Videoconference from Board members, the Chairs of the Senate and House Education Committees and the JFAC Co-Chairs. Invitations for the videoconference will go out in mid-October to members of the House and Senate Education Committees and JFAC.

**DISCUSSION:**

Items submitted thus far for discussion topics include:

Exiting Standards  
SBOE Strategic Plan  
School Facilities  
School Safety  
Student Fee Increases

It would be helpful to staff to obtain additional Board guidance concerning the videoconference:

- Should the invitation list continue to include the members of JFAC and the House and Senate Education Committees?
- Should other education stakeholders be invited?
- Should the format of the meeting [meet locally at 11:00AM (mountain), working lunch, live interactive broadcast at 1:00PM] be continued?
- Who will Chair the videoconference?

## ITEM 6.6

### **SUBJECT: TOBACCO SETTLEMENT FUNDS**

#### **BACKGROUND:**

Receipt of tobacco settlement funds has been delayed by appeals in other states. It now appears Idaho's first payment of approximately \$32 million will be available in June 2000. No decisions have yet been made concerning the use of these funds once they are received in the state and this will, no doubt, be a matter for the Governor and the Legislature to decide this legislative session.

#### **DISCUSSION:**

At the September Board meeting, it was suggested that Board staff draft a letter to the Governor requesting at least some if not all of the funds be used for education. A letter was sent to the Governor early this year regarding the Board's interest in the funds. The second letter will be requested by the Board will be sent; however, the Board staff would like additional guidance from the Board as to its priorities for use of the tobacco settlement funds.